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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,388	09/27/2001	Joji Mishina	086142-0485	9466

22428 7590 01/30/2004

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

JILLIONS, JOHN M

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/963,388

Applicant(s) **SW**

MISHINA ET AL.

Examiner

John M. Jillions

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-12, 14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-12, 14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 22-23 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: these claims are directed to a method of forming a seat belt retractor, which would be classified in class 72, subclass 362, and are distinct from the product claims since the product as claimed can be made by another and materially different process such as by molding.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-23 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono et al, of record, alone or in view of either of Swanson et al or Grady, both newly cited, for the reasons set forth in paragraph 6) of the previous Office action. Both Swanson et al and Grady disclose old and well known rib forming methods using punches as requested by applicant.

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4. Claims 12, 14, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono et al for the reasons set forth in paragraph 6) of the previous Office action. With respect to claim 18 the ribs 21 of Ono et al are elongated axially and appear to be of constant width, Figs. 7A, 7B. In any event whether those ribs are of constant width would have been an obvious design consideration to one of ordinary skill in the art since they would function in the same manner whether of constant or varying width. With respect to claims 19-21 the particular shape of the rib again is an obvious design consideration to one of ordinary skill in the art, whether of quadrilateral cross section or otherwise, or of constant or varying width, for the reasons set forth previously.

Response to Arguments

2. Applicant's arguments filed 12/11/03 have been fully considered but they are not persuasive. Applicant argues that Ono et al does not show forming a rib by punching, and requests evidence that punching is well known in the metal working arts, that Ono et al does not disclose an arc-shaped rib, a rib that varies in width, is tapered, or is of quadrilateral cross-section configuration.

However, since applicant has failed to provide any explanation as to the criticalness of the particular claimed shapes the rejections are deemed proper. Regarding claims 10-11 applicant should note MPEP 2113 related to product by process limitations in a claim. If the end product is the same whether made by different processes the claims would be unpatentable. With respect to the other rejected claims see MPEP 2144, paragraph IV, subparagraph B. Changes in Shape. See also In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

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Conclusion


3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Jillions whose telephone number is (703) 308-2685. The examiner can normally be reached on M-F 9:15 - 5:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


John M. Jillions
Primary Examiner
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